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10/535,317	02/03/2006	Donghua Xu	51631/JWP/CS43	5686
23363 7590 02/03/2009 CHRISTIE, PARKER & HALE, LLP PO BOX 7068 PASADENA, CA 91109-7068				
EXAMINER				
SHEVIN, MARK L				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/535,317

**Applicant(s)**

XU ET AL.

**Examiner**

Mark L. Shevin

**Art Unit**

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6-13, 15-20, 22, 25, 27, 29, 31, 33-34, and 36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Status of Claims*

1. Claims 6-13, 15-20, 22, 25, 27, 29, 31, 33, 34, and 36, filed October 8<sup>th</sup> 2008, are currently under examination. Compared to the claims 1-35, filed May 17<sup>th</sup>, 2005 and examined in the previous Office Action mailed April 8<sup>th</sup>, 2008:

Amended: Claims 6-13, 15, 22, 27, and 33-34

Cancelled: Claims 1-5, 14, 21, 23-24, 26, 28, 30, 32, and 35

New: Claim 36

### *Status of Previous Rejections*

2. The previous rejections of claims 1-2, 4, 6, 10, 15, and 17 under 35 U.S.C. 102(b) over **Park** (T.G. Park, Development of new Ni-based amorphous alloys containing no metalloid that have large undercooled liquid regions, *Scripta Materialia*, 43, (2000), p. 109-114) have been withdrawn in view of the cancellation of claims 1, 2, 4, and the amendment of claims 6, 10, 15, and 17, and the filing of new claim 36.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. The previous rejections of claims 1-2, 4, 6-11, 13, 15, 17, 19, 23, and 26 under 35 U.S.C.103(a) over **Li** (TW 458828 B – Abstract) have been withdrawn in view of the cancellation of claims 1, 2, 4, 23, and 26, the amendment of claims 6-11, 13, 15, and 17.

4. The previous rejections of claims 3, 5, 14, 16, 18, 20, 21-22, 24-25, 27-35 under 35 U.S.C. 103(a) over **Li** (TW 458828 B - Abstract) in view of **Kim** (US 6,325,868) have

been withdrawn in view of the cancellation of claims 3, 5, 14, 21, 24, 28, 30, 32, and 35, the amendment of claims 15, 22, 27, 33, 34, and the addition of claim 36.

5. The previous rejection of claim 12 under 35 U.S.C. 103(a) over Li (TW 458828 B- Abstract) in view of Hays (US 2002/0003013 A1) has been withdrawn in view of the amendment of claim 12 and the addition of claim 36.

***Claim Rejections - 35 USC § 103***

6. **Claims 15, 17, and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Li (TW 458828 B- Abstract)

Li:

Li discloses a powder of an amorphous alloy with a broad super-cooled liquid region of  $\text{Ni}_a\text{Zr}_b\text{Ti}_c\text{Al}_d\text{Sn}_e$  where a: 37-57, b: 20-30, c: 17-23, d: 5-10, and e: 1-3.

Regarding claims 15 and 17, if X and Y in claim 15 are 0 ("less than..." includes zero), then  $((\text{Ni,Cu})_{1-x}\text{TM}_x)_a((\text{Ti,Zr})_{1-y}\text{ETM}_y)_b(\text{Al}_{1-z}\text{AM}_z)_c$  reduces to  $(\text{Ni,Cu})_a(\text{Ti,Zr})_b(\text{Al}_{1-z}\text{AM}_z)_c$  which is  $(\text{Ni}_{34-46}\text{Cu}_{0-17})_{34-58}(\text{Ti,Zr})_{21-59}(\text{Al}_{1-z}\text{AM}_z)_{5-17}$ .

When AM is Sn, Li's alloy then overlaps the claimed ranges of Ni, Cu, Ti, Zr, Al, and AM. It would have been obvious to one of ordinary skill in metallurgy, taking the disclosure of Li as a whole, to work within the disclosed compositions ranges to form the instantly claimed amorphous alloys as MPEP 2144.05, para I states: "In the case where the claimed ranges "overlap or lie inside ranges disclosed by the prior art" a *prima facie* case of obviousness exists." Thus Li establishes a *prima facie* case of obviousness with respect to instant claim 15.

Regarding claim 19, this physical property depends on the composition of the material as no processing steps have been claimed. As the Ni-based amorphous alloy of Li was argued to establish a prima facie case of obviousness with respect to instant claim 15 above, one of ordinary skill would expect the same alloy to have the same physical and properties. From MPEP 2112, para. V, subpara 1: "[T]he PTO can require an applicant to prove that the prior art products do not necessarily or inherently possess the characteristics of his [or her] claimed product. Whether the rejection is based on 'inherency' under 35 U.S.C. 102, on '*prima facie* obviousness' under 35 U.S.C. 103, jointly or alternatively, the burden of proof is the same..."

**7. Claims 6-11, 13, 16, 18, 20, 22, 25, 29, 31, 33, 34, and 36** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Li** (TW 458828 B- Abstract) as applied to claims 15, 17, and 19 above, in further view of **Kim** (US 6,325,868).

The disclosure of Li was discussed in the 103 rejections above, however Li does not teach the addition of copper.

**Kim:**

Kim discloses nickel-based amorphous alloy compositions. One embodiment is represented by the general formula  $\text{Ni}_a(\text{Zr}_{1-x}\text{Ti}_x)_b\text{Si}_c$  where a is 45-63 at%, b is 32-48 at% and c is 1-11 at% (Abstract). X is between 0.4 and 0.6 (col. 2, lines 46-50).

At least one kind of element selected from the group consisting of V, Cr, Mn, Cu, Co, W, Sn, Mo, Y, C, B, P, and Al, can be added in the range of 2-15 at% (Abstract). This additive provides the nickel alloy with the ability to form bulk metallic glasses with

thickness of 1 mm or more and increases amorphous phase-forming ability (col. 3, lines 24-50).

Regarding claims 6-11, 13, these physical and mechanical properties depend on the composition of the material as no processing steps have been claimed. As the Ni-based amorphous alloy of Li was argued to establish a prima facie case of obviousness with respect to instant claim 1 above, one of ordinary skill would expect the same alloy to have the same physical and mechanical properties. From MPEP 2112, para. V, subpara 1: "[T]he PTO can require an applicant to prove that the prior art products do not necessarily or inherently possess the characteristics of his [or her] claimed product. Whether the rejection is based on 'inherency' under 35 U.S.C. 102, on '*prima facie* obviousness' under 35 U.S.C. 103, jointly or alternatively, the burden of proof is the same..."

Regarding claims 16 and 18, it would have been obvious for one of ordinary skill in the art to art Cu to the Ni-Zr-Ti-Al-Sn alloy of Li as Kim taught that Sn and Cu are interchangeable in that the both work as additive elements to help improve the ability to form bulk amorphous glasses. Motivation to add copper further comes from the suggestions of Kim at col 3, lines 36-49 and col. 5, lines 1-20 to at additive elements such as Cu and Sn to produce an alloy with an amorphous phase when cooled at a cooling rate of  $10^3$  K/s or less and having a super-cooled region of 20K or larger.

Regarding claim 20, this physical property depends on the composition of the material as no processing steps have been claimed. As the Ni-based amorphous alloy of Li was argued to establish a prima facie case of obviousness with respect to instant

claim 15 above, one of ordinary skill would expect the same alloy to have the same physical and properties. From MPEP 2112, para. V, subpara 1: "[T]he PTO can require an applicant to prove that the prior art products do not necessarily or inherently possess the characteristics of his [or her] claimed product. Whether the rejection is based on 'inherency' under 35 U.S.C. 102, on '*prima facie* obviousness' under 35 U.S.C. 103, jointly or alternatively, the burden of proof is the same..."

Regarding claim 22, Li teaches a Ni-Zr-Ti-Al-Sn alloy where Ni is present from 37-57 at% (overlaps claimed nickel range), Ti is present from 17 to 23 at% (overlaps claimed 'a' range), Zr is present from 20 to 30 at% (overlaps claimed 'b' range), and Al is present from 5 to 10 at% (overlaps claimed 'c' range). It would have been obvious to one of ordinary skill in metallurgy to then substitute Cu for Sn and to add from 2 to 15 at% of Cu to the Ni-Zr-Ti-Al alloy as Kim suggests adding Cu to a Ni-Zr-Ti type amorphous alloy. Motivation to add copper comes from the suggestions of Kim at col 3, lines 36-49 and col. 5, lines 1-20 to add additive elements such as Cu and Sn to produce an alloy with an amorphous phase when cooled at a cooling rate of  $10^3$  K/s or less and having a super-cooled region of 20K or larger.

Regarding claim 25, this physical property depends on the composition of the material as no processing steps have been claimed. As the Ni-based amorphous alloy of Li was argued to establish a *prima facie* case of obviousness with respect to instant claims 21 and 22 above, one of ordinary skill would expect the same alloy to have the same physical and properties. From MPEP 2112, para. V, subpara 1: "[T]he PTO can require an applicant to prove that the prior art products do not necessarily or inherently

possess the characteristics of his [or her] claimed product. Whether the rejection is based on 'inherency' under 35 U.S.C. 102, on '*prima facie* obviousness' under 35 U.S.C. 103, jointly or alternatively, the burden of proof is the same..."

Regarding claims 27 and 29, it would have been obvious to form a three dimensional article of the amorphous alloy of claims 15, 16, or 36 as Kim teaches that the very similar Ni-Ti-Zr type amorphous alloys of his invention have high strength, good abrasion resistance, and superior corrosion resistance, so they can easily form bulk amorphous alloys and these alloys can be formed into high strength and abrasion-resistance parts, structural materials, and welding/coating materials (col. 8, lines 31-37). Motivation to form these parts comes from a desire to utilize the good mechanical and physical properties of such nickel-base amorphous alloys as taught by Kim.

Regarding claim 31, it would have been obvious to form a three dimensional article of the amorphous alloy of claim 22 as Kim teaches that the very similar Ni-Ti-Zr type amorphous alloys of his invention have high strength, good abrasion resistance, and superior corrosion resistance, so they can easily form bulk amorphous alloys and these alloys can be formed into high strength and abrasion-resistance parts, structural materials, and welding/coating materials (col. 8, lines 31-37). Motivation to form these parts comes from a desire to utilize the good mechanical and physical properties of such nickel-base amorphous alloys as taught by Kim.

Regarding claim 33, Li discloses a powder of an amorphous alloy with a broad super-cooled liquid region of  $\text{Ni}_a\text{Zr}_b\text{Ti}_c\text{Al}_d\text{Sn}_e$  where a: 37-57, b: 20-30, c: 17-23, d: 5-10, and e: 1-3. It would have been obvious to one of ordinary skill in metallurgy, at the time



the invention was made, taking the disclosures of Li and Kim as whole, to combine Li in view of Kim to substitute Sn for Cu, reduce the titanium content to 16 at%, and optimize the Ni, Zr, Al, and Cu contents within the disclosed ranges to yield the instantly claimed alloy for the following reasons:

It would have been obvious to one of ordinary skill in metallurgy to then substitute Cu for Sn and to add from 2 to 15 at% of Cu to the Ni-Zr-Ti-Al alloy as Kim suggests adding Cu to a Ni-Zr-Ti type amorphous alloy. Motivation to add copper comes from the suggestions of Kim at col 3, lines 36-49 and col. 5, lines 1-20 to at additive elements such as Cu and Sn to produce an alloy with an amorphous phase when cooled at a cooling rate of  $10^3$  K/s or less and having a super-cooled region of 20K or larger. Motivation to reduce the titanium content comes the range disclosed by Kim, namely 13.2 at% ( $x=0.4$  at 33 at% of Zr+Ti total) to 27.6 at% ( $x=0.6$  at 46 at% of Zr+Ti total). Within the disclosed ranges of Ni, Ti, Zr, Al, and Cu, it would have been obvious to one of ordinary skill in the art at the time of the invention to choose the instantly claimed element concentrations through process optimization, since it has been held that there the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. See In re Boesch, 205 USPQ 215 (CCPA 1980).

Regarding claim 34, Li discloses a powder of an amorphous alloy with a broad super-cooled liquid region of  $Ni_aZr_bTi_cAl_dSn_e$  where a: 37-57, b: 20-30, c: 17-23, d: 5-10, and e: 1-3. It would have been obvious to one of ordinary skill in metallurgy, at the time the invention was made, taking the disclosures of Li and Kim as whole, to combine Li in

view of Kim to substitute Sn for Cu, and to optimize the Ni, Ti, Zr, Al, and Cu contents within the disclosed ranges to yield the instantly claimed alloy for the following reasons:

It would have been obvious to one of ordinary skill in metallurgy to then substitute Cu for Sn and to add from 2 to 15 at% of Cu to the Ni-Zr-Ti-Al alloy as Kim suggests adding Cu to a Ni-Zr-Ti type amorphous alloy. Motivation to add copper comes from the suggestions of Kim at col 3, lines 36-49 and col. 5, lines 1-20 to at additive elements such as Cu and Sn to produce an alloy with an amorphous phase when cooled at a cooling rate of  $10^3$  K/s or less and having a super-cooled region of 20K or larger.

Within the disclosed ranges of Ni, Ti, Zr, Al, (Li) and Cu (Kim), it would have been obvious to one of ordinary skill in the art at the time of the invention to choose the instantly claimed element concentrations through process optimization, since it has been held that there the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. See In re Boesch, 205 USPQ 215 (CCPA 1980).

Regarding claim 36, Li discloses a powder of an amorphous alloy with a broad super-cooled liquid region of  $\text{Ni}_a\text{Zr}_b\text{Ti}_c\text{Al}_d\text{Sn}_e$  where a: 37-57, b: 20-30, c: 17-23, d: 5-10, and e: 1-3. It would have been obvious to one of ordinary skill in metallurgy, at the time the invention was made, taking the disclosures of Li and Kim as whole, to combine Li in view of Kim to substitute Sn for Cu, and to optimize the Ni, Ti, Zr, Al, and Cu contents within the disclosed ranges to yield the instantly claimed alloy for the following reasons:

It would have been obvious to one of ordinary skill in metallurgy to then substitute Cu for Sn and to add from 2 to 15 at% of Cu to the Ni-Zr-Ti-Al alloy as Kim suggests

adding Cu to a Ni-Zr-Ti type amorphous alloy. Motivation to add copper comes from the suggestions of Kim at col 3, lines 36-49 and col. 5, lines 1-20 to at additive elements such as Cu and Sn to produce an alloy with an amorphous phase when cooled at a cooling rate of  $10^3$  K/s or less and having a super-cooled region of 20K or larger.

Within the disclosed ranges of Ni, Ti, Zr, Al, (Li) and Cu (Kim), it would have been obvious to one of ordinary skill in the art at the time of the invention to choose the instantly claimed element concentrations through process optimization, since it has been held that there the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. See In re Boesch, 205 USPQ 215 (CCPA 1980).

8. **Claim 12** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Li** in view of **Kim** as applied to claims 6-11, 13, 16, 18, 20, 22, 25, 29, 31, 33, 34, and 36 above, in further view of **Hays** (US 2002/0003013 A1).

The disclosures of Li and Kim were discussed in the 103 rejections above, however Li and Kim do not teach the presence of a ductile crystalline phase precipitate.

**Hays:**

Hays is drawn to a new class of metallic glass materials that employ the previously unknown physical mechanism of shear band pattern formation. The presence of in-situ precipitated ductile crystalline phases in the metallic glass is suggested in utilize the phenomenon of shear band pattern formation, which dramatically increases the plastic strain to failure, impact resistance, and toughness of the material (paras 0007 and 0008).

Regarding claim 12, it would have been obvious to one of ordinary skill in metallurgy, at the time the invention was made, to combine Li in view Kim and Hays to form crystalline ductile phases in the bulk metallic glass of Li as Hays teaches that such ductile crystalline phases increase the plastic strain to failure, impact resistance, and toughness of the material (para 0007).

***Response to Applicant's Arguments:***

9. Applicant's arguments filed October 8<sup>th</sup>, 2008 have been fully considered but they are not persuasive.

Applicants' assertions with respect to Park (p. 7, para 2) are moot in view of the withdrawal of Park as a reference in the instant rejections.

Applicants assert (p. 7, para 3) that Li fails to teach or suggest an alloy including Cu.

In response, while Li does not disclose Cu, independent claim 15 does not require Cu, only independent claims 22 and 36 require Cu.

Applicants assert (p. 8, para 1) that the Sn in the Li alloy, the Si or P in the Kim alloy, and the additional metals in the Hays alloys would materially affect the basic and novel characteristics of the present invention.

In response, MPEP 2111.03, expanding on what was quoted by Applicants, further states that: For the purposes of searching for and applying prior art under 35 U.S.C. 102 and 103, absent a clear indication in the specification or claims of what the basic and novel characteristics actually are, "consisting essentially of" will be construed as equivalent to "comprising." See, e.g., *PPG*, 156 F.3d at 1355, 48 USPQ2d at 1355

("PPG could have defined the scope of the phrase 'consisting essentially of' for purposes of its patent by making clear in its specification what it regarded as constituting a material change in the basic and novel characteristics of the invention."). Applicants conclude that any elements other than those claimed affect the basic and novel characteristics which no citation to the instant specification, no further technical reasoning, and no evidence by way of signed declaration that can be admitted as factual rather than conclusory opinion. MPEP 2145 states: Rebuttal evidence and arguments can be presented in the specification, *In re Soni*, 54 F.3d 746, 750, 34 USPQ2d 1684, 1687 (Fed. Cir. 1995), by counsel, *In re Chu*, 66 F.3d 292, 299, 36 USPQ2d 1089, 1094-95 (Fed. Cir. 1995), or by way of an affidavit or declaration under 37 CFR 1.132, e.g., *Soni*, 54 F.3d at 750, 34 USPQ2d at 1687; *In re Piasecki*, 745 F.2d 1468, 1474, 223 USPQ 785, 789-90 (Fed. Cir. 1984). However, arguments of counsel cannot take the place of factually supported objective evidence. See, e.g., *In re Huang*, 100 F.3d 135, 139-40, 40 USPQ2d 1685, 1689 (Fed. Cir. 1996); *In re De Blauwe*, 736 F.2d 699, 705, 222 USPQ 191, 196 (Fed. Cir. 1984).

Applicants assert (p. 8, para 2) that none of Li, Kim, and Hays teach or suggest the feature of Ni in the amount ranging from 34 to 46 atomic percent and that such a feature exhibits unexpected and desirable results as evidenced by the differences discuss in para 2 of page 8 in relation to the cited prior art.

In response Li and Kim teach alloys with overlapping composition ranges as explained in the instant office action and unexpected success has not been established as the burden is on Applicants to establish that the results are in fact unexpected,

unobvious, and of statistical and practical significance. Direct comparison tests either in the specification or in a signed declaration comparing the claimed invention with the closest prior art which is commensurate in scope with the claims is the minimum acceptable standard for persuasiveness in demonstrating unexpected success as a secondary consideration. Lastly, from MPEP 716.01: Objective evidence which must be factually supported by an appropriate affidavit or declaration to be of probative value includes evidence of unexpected results, commercial success, solution of a long-felt need, inoperability of the prior art, invention before the date of the reference, and allegations that the author(s) of the prior art derived the disclosed subject matter from the applicant. See, for example, *In re De Blauwe*, 736 F.2d 699, 705, 222 USPQ 191, 196 (Fed. Cir. 1984).

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

**-- Claims 6-13, 15-20, 22, 25, 27, 29, 31, 33-34, and 36 are finally rejected**  
**-- No claims are allowed**

The rejections above rely on the references for all the teachings expressed in the texts of the references and/or one of ordinary skill in the metallurgical art would have reasonably understood or implied from the texts of the references. To emphasize

certain aspects of the prior art, only specific portions of the texts have been pointed out. Each reference as a whole should be reviewed in responding to the rejection, since other sections of the same reference and/or various combinations of the cited references may be relied on in future rejections in view of amendments.

All recited limitations in the instant claims have been met by the rejections as set forth above. Applicant is reminded that when amendment and/or revision is required, applicant should therefore specifically point out the support for any amendments made to the disclosure. See 37 C.F.R. § 1.121; 37 C.F.R. Part §41.37 (c)(1)(v); MPEP §714.02; and MPEP §2411.01(B).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark L. Shevin whose telephone number is (571) 270-3588 and fax number is (571) 270-4588. The examiner can normally be reached on Monday - Friday, 8:30 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy M. King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

***/Mark L. Shevin/***  
Examiner, Art Unit 1793

***/Roy King/***  
Supervisory Patent Examiner, Art Unit 1793

January 29th, 2009  
10-535,317